

# ONCE UPON A TIME IN THE BALKANS: CENTRALISATION, DECENTRALISATION, AND THE PRINCIPLE OF EQUALITY AMONG REPUBLICS IN THE FEDERAL SYSTEM OF YUGOSLAVIA

Benjamin Flander<sup>1</sup>

## ABSTRACT

*Yugoslavia was once a conglomeration of diverse nations, marked by significant socio-economic disparities and a unique, ever-evolving state structure. It transitioned from a pre-Second World War unitary state, often criticised as one nation's claimed hegemony over others, to a federation of six nominally equal republics and two regions with an autonomous status designed to prevent such dominance. This article provides an overview of the federal system of post-war socialist Yugoslavia, examining the processes of centralisation and decentralisation and assessing how the principle of equality among the republics was applied throughout different phases of Yugoslav federalism. As this article shows, after a period of decentralisation and the strengthening of the republics' sovereignty and independence in the late 1970s, renewed tendencies towards centralisation, the dominance of one republic over others, and the erosion of equality among the federal units contributed to intensifying conflicts between nations, ultimately leading to Yugoslavia's disintegration. The article concludes with a comparison of Yugoslav and European (con)federalism, focusing on centralisation, decentralisation, and the principle of equality among their constituent parts.*

## KEYWORDS

*Yugoslavia  
federalism  
federal system  
republics  
centralisation  
decentralisation  
equality*

- 1 | Associate Professor, Faculty of Criminal Law and Security, University of Maribor; Slovenia; Senior Research Associate, the Law Institute of the Science and Research Centre, Koper, Slovenia; benjamin.flander@um.si; ORCID: 0000-0002-2738-1590.



## 1. Introduction

Yugoslavia, ‘the Land of the South Slavs’, was a federation throughout its existence (1929–2003). Succeeding the State of Slovenes, Croats, and Serbs (1918) and Kingdom of Serbs, Croats, and Slovenes (1918–1929), the Kingdom of Yugoslavia (Serb. *Kraljevina Jugoslavija*) was officially proclaimed in 1929 and lasted until the Second World War. During the war, the Democratic Federal Yugoslavia (Serb. *Demokratska federativna Jugoslavija*) was established in the liberated territory, whereafter it became the Federative People’s Republic of Yugoslavia (Serb. *Federativna ljudska republika Jugoslavija*) on 29 November 1945. On 7 April 1963, the so-called ‘second Yugoslavia’ was renamed the Socialist Federal Republic of Yugoslavia (Serb. *Socijalistička Federativna Republika Jugoslavija*), which lasted until 1991. At the time of its dissolution, it had a population of about 24 million. In addition to Serbia and Montenegro, it included four other socialist republics now recognised as independent states: Bosnia and Herzegovina, Croatia, (North) Macedonia, and Slovenia. From 1946 to 1991, Serbia also included two autonomous regions, Vojvodina and Kosovo, which had a special status on the federal level. Inaugurated on 27 April 1992, the ‘third Yugoslavia’, consisted of only two republics, Serbia and Montenegro. It comprised roughly 45 percent of the population and 40 percent of the area of its predecessor. In 2003, the two constituent members agreed to abandon the name Yugoslavia and rename the country Serbia and Montenegro. In 2006, the union was disbanded and two independent countries were formed.

Among scholars from the Balkans, pre-war Yugoslavia has received little attention in discussions of federalism.<sup>2</sup> For instance, in his extensive review of the development of Yugoslav federalism prior to 1946, Miroslav Djordjević dedicated only a single paragraph to the Kingdom of Yugoslavia.<sup>3</sup> Most works by regional authors in the field of constitutional law exclusively focus on the development of federalism in socialist Yugoslavia. For example, Makso Šnuderl, a prominent Slovenian constitutional lawyer, argued that pre-war Yugoslavia failed to resolve the national question, a key weakness in his view.<sup>4</sup> According to Šnuderl, the national liberation struggle against the Nazis during the Second World War was also a fight for a ‘people’s and democratic federation of equal nations in Yugoslavia.’ He believed that only this state form could express the unity of diverse nations desiring to live together as equals.<sup>5</sup>

However, federalism in socialist Yugoslavia did not begin with the adoption of the 1946 constitution, but with the second session of the AVNOJ on 29 November 1943,

2 | See Accetto, 2007, p. 29.

3 | Djordjević, 1997, p. 121.

4 | Šnuderl, 1956, p. 245. Edvard Kardelj, a Slovene who was one of the principal ideologues and architects of Yugoslavia’s constitutional arrangements, believed that the resistance of the Croatian, Slovenian, and Macedonian masses against Great Serbian hegemony and centralism, as well as the friction between the bourgeois elites, increasingly complicated the ‘knot of contradictions’ arising from the national question. According to Kardelj, the underlying issue among the nations of then-Yugoslavia was the concept of ‘integral Yugoslavia’. However, he considered such a unitary-Yugoslav construct outdated. The unification of nations is only possible for undifferentiated, closely related peoples in the early stages of national awakening, and impossible for developed nations. See Kardelj, 1957, cited in Accetto, 2007, p. 122.

5 | Šnuderl, 1956, p. 245.

which adopted the decree on the construction of Yugoslavia according to the federal principle.<sup>6</sup> Key milestones in the development of Yugoslav federalism included the adoption of the Constitutional Act of 1953, the Constitution of 1963, and the Constitution of 1974. Compared to other existing federal systems, post-war Yugoslav federalism had some specific characteristics, of which at least three are worth highlighting. In contrast to 'unifying federalism', which reflects the effort to forge a closer connection between constituent parts (e.g. the federal system in the United States), Yugoslavia followed the path of 'containment federalism', gradually transforming from a predominantly centralised formation into a loose federation. Matej Accetto argues that this was not only because post-war federal Yugoslavia developed from a pre-war monarchy, which was a *de facto* unitary state, but also due to the subsequent constitutional development up to the 1974 federal constitution, whereby the centre of power was transferred from the federal level to the constituent units. Like their America counterparts, the founders of Yugoslav federalism were looking for an arrangement that would harmonise the need for the sufficient autonomy and sovereignty of individual members with the desire for unity in the form of a single federation. Nonetheless, Yugoslavia gradually moved towards decentralisation, shifting from a pre-war unitary state to a centralised federation under the Constitution of 1946, Constitutional Act of 1953, and Constitution of 1963, and then to a decentralised federation with the passing of constitutional amendments and adoption of the new Constitution of 1974. Towards the end of the 1980s, when socialist Yugoslavia was approaching disintegration, proposals for the creation of an even looser 'asymmetric federation' appeared, but were unacceptable in the political climate at the time. Indeed, with amendments to their republican constitutions, Slovenia and Croatia had begun paving the way for independence.<sup>7</sup>

Another peculiarity of Yugoslav federalism is that it was founded on a rigid principle of unity of power, the opposite to the separation of powers, a cornerstone of the liberal legal and constitutional tradition associated with democratic rule of law. The judiciary played a minimal role in maintaining the federal balance, despite the introduction of constitutional courts at both the federal and republican levels in 1963.<sup>8</sup> The limited role of the (constitutional) judiciary was closely tied to another key characteristic that set Yugoslav federalism apart from other federal systems, such as those in the United States and Canada. Unlike these systems, Yugoslavia adopted a new constitution nearly every decade after the Second World War, both at the federal level and within the individual federal units.

The frequent adoption of constitutional amendments and new constitutions was a consequence of the absence of constitutional review, which would have enabled the ongoing adaptation of the constitutional system to the changing social conditions. As Accetto notes, this phenomenon of 'planned constitutionalism' was not unique to former socialist countries, with the European Union (EU) having repeatedly amended and

6 | Accetto, 2007, p 115. The Anti-Fascist Council for the National Liberation of Yugoslavia, typically abbreviated as the AVNOJ, was a deliberative political and legislative body during the Second World War.

7 | Accetto, 2007, pp. 115, 117. The author refers to Kušej, 1972, pp. 157–179.

8 | Djordjević, 1970, cited in Accetto, 2007, p. 117, footnote 364. Other former socialist countries, such as Czechoslovakia and Romania, established constitutional courts much later, with meaningful constitutional review procedures emerging only after the end of communism.

replaced its founding treaties over time. While Accetto does not equate the Yugoslav and European experiences entirely, he argues that they are more similar than they might initially appear. Both faced the challenge of balancing the push for unification with the desire for independence and equality among their members, a balance they sought to achieve through gradual constitutional reforms.<sup>9</sup> Although the Yugoslav constitutional project ultimately ended in the (bloody) disintegration of the country, erasing any remnants of the apparent stability of its federal structure, this does not diminish the significance of the post-war Yugoslav federal experience for the theory and practice of federalism. On the contrary, this tragic outcome makes studying it all the more important.<sup>10</sup>

This article provides an overview of the federal system of post-war socialist Yugoslavia, examining the processes of centralisation and decentralisation and assessing how the principle of equality among the republics was applied throughout different phases of Yugoslav federalism. This article shows that the inclination towards a centralised federal system, dominance of one republic over others, and weakening of equality of federal units, among other things, intensified conflicts among nations and republics and contributed to the final disintegration of Yugoslavia. The article concludes with a comparison of Yugoslav and European federalism by focusing on centralisation, decentralisation, and the principle of equality among their constituent parts.

## 2. Development of federalism in post-war Yugoslavia: Centralisation, decentralisation, and the principle of equality among nations and federal units

### | 2.1. *Federal Yugoslavia under the Constitution of 1946*

The Democratic Federative Yugoslavia (DFY), established during the Second World War, was renamed the People's Republic of Yugoslavia (FPRY) after the war ended. The FPRY existed from 29 November 1945, to 7 April 1963, and primarily comprised South Slavic nations within the territory of what are now several independent states. The country consisted of six constituent units known as the 'people's republics': Serbia, Croatia, Slovenia, Bosnia and Herzegovina, Montenegro, and Macedonia. Within Serbia,

9 | The EU is 'planned' to be built with ever-new foundational structures, gradually progressing towards a closer union. This approach is evident in both its foundational principles, as outlined in the Schuman Declaration, and the relatively frequent amendments to its founding treaties. Ultimately, there is little distinction between the socialist slogans and the programs and directives established by the 'leaders' of the EU. See Accetto, 2007, pp. 118–119.

10 | *Ibid.*, p. 220.

the autonomous region of Vojvodina<sup>11</sup> and the autonomous authority of Kosovo and Metohija<sup>12</sup> were also established.

In January 1946, the Constitution of the Federal People's Republic of Yugoslavia (hereinafter, the 1946 Constitution) was promulgated, introducing a political system modelled after the Soviet Union – a system of 'people's democracy' based on the dictatorship of the proletariat. The state was organised according to the principle of unity of power. Formally, the highest body of state power with legislative authority on matters within the jurisdiction of the federation was the Federal Assembly. In practice, the Federal Assembly's functions were carried out by its Presidium, which also served as the country's collective presidency. However, the real power did not lie with the Federal Assembly, but with the federal government, which, *inter alia*, issued decrees with the force of laws.<sup>13</sup>

In regulating relations within the federation, the 1946 Constitution introduced the principles of sovereignty and equality among nations. The FPRY was declared 'a community of equal nations' that, exercising their right to self-determination, including the right to secede, 'expressed their will to live together in a federal state'.<sup>14</sup> In the chapter on 'Fundamental Rights of Nations and People's Republics', the 1946 Constitution stated that 'any act contrary to the sovereignty and equality among the nations of the FPRY and its people's republics is in violation of the federal constitution'.<sup>15</sup>

The position of the highest bodies of state power in the FPRY were regulated in Chapter VII of the Second Part of the 1946 Constitution. The Federal Assembly consisted of two equal chambers: the Federal Council, in which all citizens were represented (one deputy was elected for every 50,000 inhabitants), and the Council of Nations, where, according to the principle of parity, the republics, autonomous region, and autonomous authority were represented as constituent parts of the federation.<sup>16</sup> The republics elected thirty deputies, the autonomous region twenty, and the autonomous authority fifteen.<sup>17</sup>

Federal laws were applicable throughout the territory of the FPRY. No bill at the federal level could become law without a majority vote in both chambers.<sup>18</sup> Both chambers also had the right to delay additions and amendments to the statutory provisions. If consensus on a proposal was not reached, the matter was referred to the co-ordination committee of the Federal Assembly, where both chambers were equally represented.<sup>19</sup> In

11 | Vojvodina is a province in northern Serbia with a majority Serbian population and a significant Hungarian minority. It comprises nearly a quarter of Serbia's territory. Under the 1946 Constitution, it was established as an autonomous region within the People's Republic of Serbia. Its powers within the framework of limited autonomy were defined by the 1947 Constitution of the People's Republic of Serbia.

12 | According to the 1946 Constitution, Kosovo and Metohija was designated as an autonomous authority within the territory of the People's Republic of Serbia. It has a predominantly Albanian population. Its powers within the framework of limited autonomy were defined by the 1947 Constitution of the People's Republic of Serbia.

13 | See Kaučič and Grad, 2007, p. 53.

14 | Constitution of the FPRY, First Part, Chapter I, Article 1.

15 | Constitution of the FPRY, Chapter III, Article 10.

16 | Constitution of the FPRY, Second Part, Chapter VII, Articles 47–53.

17 | Constitution of the FPRY, Second Part, Chapter VII, Article 54.

18 | Constitution of the FPRY, Second Part, Chapter VII, Article 63, paragraph 3.

19 | Constitution of the FPRY, Second Part, Chapter VII, Article 64.

cases of conflict between federal laws and the laws of the federal units, federal laws took precedence.<sup>20</sup>

The federal units enjoyed a relatively high degree of autonomy, with their own constitutions, legislative authority, and legislative and executive bodies. The 1946 Constitution explicitly stipulated that 'the federal units independently adopt their constitutions so that they reflect the particularities of each individual republic while remaining in accordance with the federal constitution'.<sup>21</sup> In principle, the federation only held powers delegated to it by the republics through the federal constitution. In practice, however, the country functioned in a distinctly centralist manner, both politically and economically, as key positions in the federal bodies and federal units were occupied by representatives of the Communist Party of Yugoslavia as the only political force.<sup>22</sup> The Communist Party controlled all levers of power at the federal level, as well as within the republics and lower political-territorial units. Therefore, the state organisation largely resembled the organisation of the Communist Party, and the decisions of the Communist Party dictated those of the state government.<sup>23</sup> This unique form of Yugoslav statism significantly diminished the rights, political autonomy, and *de facto* equality of individual republics, as there were frequent estimates by most federal units that one republic – namely, Serbia – had hegemony over others.

## | 2.2. Constitutional Act of 1953

Following the Tito–Stalin split and Yugoslavia's break from Soviet influence in 1948,<sup>24</sup> comprehensive constitutional reform was implemented in 1953. This reform was carried out at both the federal and republic levels, not through the adoption of a new constitution but through the enactment of a constitutional act. This period marked the beginning of a system of 'worker's self-government', leading to the emergence of a new type of socialism that differed significantly from the Soviet model. The Constitutional Act of 1953 introduced social ownership, workers' self-management of enterprises, and people's councils.<sup>25</sup>

20 | Constitution of the FPRY, Second Part, Chapter VII, Article 46.

21 | Constitution of the FPRY, Chapter I, Article 11.

22 | Kaučič and Grad, 2007, pp. 53–54. From the end of the Second World War until the mid-1980s, there was no organised political opposition in Yugoslavia. Nevertheless, a critical attitude towards Communist Party politics persisted throughout the post-war period, especially among the intelligentsia and cultural circles. The so-called 'quiet pluralism' in culture, the arts, philosophy, and even in journalism was quietly supported by the authorities, although it was limited by the prohibition of political assembly and the tolerance 'boundary' set at various times by the Communist Party. See Repe, 1994, pp. 49–58.

23 | Hacin et al., 2022, p. 333.

24 | In the aftermath of 1948, Yugoslav socialism forged its own path, one characterised by broader personal and economic freedoms than those in other countries of the Eastern Bloc. It also differed from the other socialist countries in terms of the openness of its borders to the West and the state-supported labour emigration to Western European countries. See Flander et al., 2022, p. 3.

25 | This so-called 'Third Way' of Yugoslav socialism was premised on the proclamation of workers' self-management, which drew upon ideas that went beyond the bureaucratised 'state socialism' and social democracy of the West. Also inseparably tied to the 'Yugoslav experiment' were the local people's councils, that is, revolutionary administrative bodies intended to form the basis of a socialist model of direct democracy, both in the political system and economy. See Kanzleiter, 2011, cited in Flander et al., 2022, p. 3.

The structure of the federal government was also altered. The previous Presidium (i.e. the collective presidency of the state) was replaced with the individual President of the FLRY, and the Government was replaced by the Executive Council, which no longer directly managed state administrative bodies but coordinated their work as the executive body of the Federal Assembly.<sup>26</sup> These changes further strengthened the trend towards the centralisation of state power within the federal system of the former Yugoslavia, a trend that was already prominent under the 1946 Constitution.

In terms of relations within the federation, this development significantly weakened the republics' position vis-à-vis the federal power. The Constitutional Act of 1953 abolished the Council of Nations within the Federal Assembly. Under the new arrangement, some members of the Federal Assembly were still elected from the federal units, but they convened as a 'half-chamber' only on rare occasions. The body representing the federal units was replaced by the Council of Producers. Alongside the Federal Council, which represented all citizens, the Council of Producers was intended to represent the specific social interests of the so-called 'direct producers' (i.e. workers). Similar representative bodies were also established at lower levels of the state apparatus. The introduction of these assemblies meant that the principle of general political representation began to intertwine with the principle of representing specific social interests, a trend that became even more pronounced in subsequent periods.<sup>27</sup>

In the late 1950s, new developments led to a gradual departure from 'iron communism' and a shift towards political liberalisation, a greater reliance on market mechanisms, and so-called 'welfare socialism'. Although economic progress was achieved under this system, it was more intense in some federal units than in others.<sup>28</sup>

### 2.3. Constitution of 1963: Towards a decentralised Yugoslav federal system

With the adoption of the Constitution of the Socialist Federal Republic of Yugoslavia on 7 April 1963 (hereinafter, the 1963 Constitution), the country was renamed the Socialist Federal Republic of Yugoslavia (hereinafter, SFRY) and its federal units became 'socialist republics'. The 1963 Constitution, along with the new constitutions of the republics, consolidated, expanded, and deepened the system of workers' self-management. This system was closely tied to 'social property', which became the fundamental form of property in the country. The federal organisation of the country remained almost the same as it had

26 | Kaučič and Grad, 2007, p. 54.

27 | Ibid.

28 | The northern, more developed areas of Slovenia and Croatia, which were transitioning from an agrarian to industrial structure, provided the necessary basic conditions for industrialisation. In contrast, the rest of the country was predominantly agricultural, with little industry. Economically, Slovenia was the most developed. After the Second World War, Slovenia's gross domestic product per capita was more than double that of any other Yugoslav republic. It also had a significantly lower unemployment rate and high levels of egalitarianism and social security. Contrary to the previous orientation towards heavy industry, the development of more dynamic branches (e.g. trade, banking, transport, tourism, services, consulting, engineering, and in the long run, computer sciences) took place. By combining socially owned property and market laws, Slovenia became a unique bridge between eastern and western countries. Borak, 2002; Repe, 1994, cited in Flander et al., 2022, p. 3. See also Hacin et al., 2022, p. 334.

under the Constitutional Act of 1953, with one significant exception: the composition of the Federal Assembly became multi-chambered. In addition to the Federal Council, which represented all citizens, the Federal Assembly now consisted of four working community councils – namely, the Economic Council, Social-Health Council, Cultural-Educational Council, and Organisational-Political Council – each representing the specific self-governing interests of employees in these areas of ‘social work’. Another important innovation in the context of the country’s federal structure was the introduction of constitutional courts, both at the federal level and within the republics.<sup>29</sup>

In 1971, constitutional amendments were adopted that deeply impacted the structure of the Yugoslav Federation and significantly influenced the further development of federalism in post-war period. Some legislative and other powers were transferred from federal bodies to those of the federal units, generally strengthening the position of the republics in relation to the federation. The influence of the federal units on decision-making at the federal level was also increased within the structure of the federal government. The individual Presidency of the federal state was replaced by a collective body, the Presidency of the SFRY, in which the republics and autonomous regions were equally represented based on the principle of parity.<sup>30</sup> However, despite these steps towards the gradual decentralisation of the Yugoslav federal system, in practice, so-called ‘democratic centralism’ endured. This development reflected the position and role of President Josip Broz Tito, and the Communist Party of Yugoslavia in particular, as the holders of political monopoly.<sup>31</sup>

In the 1960s, the economic growth that began in the 1950s slowed. The subsequent stagnation prompted economic reforms and raised questions about the relationship between the developed and underdeveloped republics. In Slovenia, the Communist Party leadership viewed economic reform as an opportunity for development and progress. With the exception of Croatia, the other republics did not approve efforts to promote economic reforms. In the specific political, economic, social, and institutional conditions of the late 1960s, Slovenia developed its own version of socialist welfarism, which guaranteed lifelong employment and social security for most of the working class. Similarly, political liberalisation, which emerged among the intelligentsia, civil society, and some politicians, was much stronger in Slovenia and Croatia than in other republics. Liberal communists advocated for a clearer separation between the Communist Party and the state, as well as for more democracy within the Communist Party itself. Lasting for about five years, the liberal swing ended with the removal of liberals in Slovenia, Croatia, and Serbia in the early 1970s.<sup>32</sup>

#### | 2.4. Constitution of 1974

On 21 February 1974, the Federal Assembly adopted a new constitution, the last of the Socialist Federal Republic of Yugoslavia (hereinafter, the 1974 Constitution). The 1974 Constitution brought significant changes to the organisation of the state and the structure of state power bodies at both the federal and lower levels. On the one hand, these changes continued the process, at least formally, of decentralising state power and shifting of the

29 | Kaučič and Grad, 2007, p. 55.

30 | Ibid., p. 56.

31 | See Žagar, 2010, p. 251.

32 | Borak, 2002; Repe, 1994, cited in Hacin et al., 2022, p. 334.



centre of decision-making from the federal level to the bodies of the republics. On the other hand, the new constitution introduced the 'delegate system', which almost entirely abolished the direct election of state power bodies.<sup>33</sup>

With the 1974 Constitution, Yugoslavia was defined as a federal state, that is, a community of voluntarily united nations, including their socialist republics and the socialist autonomous regions of Kosovo and Vojvodina within the Socialist Republic of Serbia.<sup>34</sup> Compared to previous constitutions and other federations at the time, the 1974 Constitution strengthened the independence and position of the republics and, to some extent, the autonomous regions. It defined a socialist republic as 'a state based on national sovereignty, and the power and self-governance of the working class, and all working people'.<sup>35</sup> The 1974 Constitution established a rule of enumerative definition of federal powers and the principle of presumption of power in favour of the republics.<sup>36</sup>

Like the 1946 and 1963 Constitutions, the 1974 Constitution acknowledged the multi-ethnic and multi-national character of the federation and emphasised that the state was founded on each nation's right to self-determination, including the right to secede. As with the 1963 Constitution, however, this right was not included in the normative part but mentioned in the section on fundamental principles.<sup>37</sup> According to the 1974 Constitution, nations and nationalities of the SFRY were to adopt decisions based on principles of communication, solidarity, reciprocity, and equality among republics and autonomous regions.<sup>38</sup> The latter included equal and proportional representation of federal units in federal bodies and decision-making by consensus on matters crucial to the equality among nations and nationalities, republics, and autonomous regions. A bicameral Federal Assembly was re-introduced, consisting of the Federal Council and the Council of the Republics and Regions.<sup>39</sup> Both chambers were composed on a parity basis, ensuring equal representation of republics and regions. Decisions made in the Council of the Republics and Regions could only be altered with the consent of all republics and regions, and even the federal Constitution could not be amended without the agreement of all federal units.<sup>40</sup> Parity was established not only in the legislative bodies, which is common in federal systems, but also in the Presidency of the SFRY (i.e. the collective leadership of the country), as well as in the executive and judicial branches. Parity was also applied to the organisation and functioning of the Union of Communists of Yugoslavia.<sup>41</sup>

Evidently, after the 1974 Constitution came into effect, decentralisation and the autonomy and independence of the republics, as well as regions, were significantly

33 | Kaučič and Grad, 2007, p. 56.

34 | 1963 Constitution, First Part, Article 1.

35 | 1963 Constitution, Basic Principles, Section I, Article 4. The 1974 Constitution did not define the socialist autonomous regions as (national) states, but rather as autonomous socialist self-managing democratic socio-political communities, intended to ensure ethnic equality and preserve the ethnic plurality of these communities.

36 | See Žagar, 2010, p. 251.

37 | 1974 Constitution, Basic Principles, Section I. See also Žagar, 2010, p. 252.

38 | 1974 Constitution, Article 1. See also Article 245.

39 | Žagar, 2010, p. 250. Žagar (ibid.) argues that the establishment of ethnic pluralism demonstrates that the Yugoslav constitutional system permitted and facilitated a certain degree of social pluralism, even within the political system. However, it is important to note that political pluralism in the form of a multi-party system was prohibited.

40 | Kaučič and Grad, 2007, p. 56.

41 | Žagar, 2010, p. 251.

strengthened in practice, not just in the constitutional provisions. At the same time, it is important to note that the increased autonomy and independence of the republics led to growing disparities in their economic development and varying speeds at which political space opened to democratisation and the establishment of political and party pluralism. Decentralisation further encouraged the clearer articulation and expression of the specific interests of individual republics, which led to increasing conflicts between them, especially after the death of Josip Broz Tito in 1980.<sup>42</sup>

While officially strengthening federalisation, the 1974 Constitution confirmed the victory of the conservative forces in Yugoslavia and Communist Party leadership. Although the political police registered various groups supposedly critical of the regime, organised opposition did not exist. In fact, the number of people convicted of political offences in Yugoslavia was relatively low due to the policy of 'an iron fist in a velvet glove'.<sup>43</sup>

### | 2.5. Constitutional amendments of 1988 and 1989

In the 1980s, decentralisation and the increased independence of the republics led to proposals for reforming the federal system. Where some called for further decentralisation, others proposed centralisation and the strengthening of the federation's authority. Among the reform proposals that failed to secure the necessary agreement from the federal units in the prevailing political climate, it is worth noting the Slovenian proposals for the creation of an asymmetrical federation, subsequently followed by Slovenian and Croatian proposals for the establishment of a confederation.<sup>44</sup>

In the second half of the 1980s, there were increasing calls to establish an independent status, particularly in Slovenia, with some even advocating for leaving the federation and declaring independence. In sharp contrast, representatives of the federal government, along with Serbia, criticised the 1974 Constitution for promoting excessive decentralisation and called for amendments that would strengthen federal authority.<sup>45</sup> In 1988, amid escalating tensions between the federal government and some republics, as well as between the republics themselves, the Assembly of the SFRY adopted amendments to the 1974 Constitution, attempting to reassert centralism within the Yugoslav Federation. Through unpopular decrees, the Federal Executive Council also adopted measures that strengthened centralism in the field of economy and banking. However, these and other measures of the federal authorities intended to centralise state power were resisted by the republics, which did not want to lose the acquired autonomy and powers. At the same time, criticism of the one-party political system grew, as did demands for the democratisation of political life.

42 | Ibid.

43 | Pirjevec, 1995, cited in Hacin et al., 2022, p. 335.

44 | Žagar, 2010, pp. 251–252. See also Žagar, 1990, pp. 325–437.

45 | Kaučič and Grad, 2007, p. 57. See also Grad et al., 2018, p. 86.

## | 2.6. Dissolution of Yugoslavia

Together, the process of decentralisation and the system of workers' self-management<sup>46</sup> significantly weakened the state's federal structure. The SFRY eventually became a chaotic state, where it was unclear which powers remained with the federal authorities. The conflict between the advocates of 'democratic centralism' and those unwilling to relinquish the autonomy gained by the federal units under the 1974 Constitution led to a gridlock that paralysed decision-making at the federal level, hindering the continued existence and functioning of the federation.<sup>47</sup>

Towards the end of the 1980s, political and economic disagreements and conflicts between the federation and some republics, as well as between certain republics themselves, intensified. Citing the position that Serbs living in Kosovo were under threat, the political leadership of Serbia at the time began to emphasise nationalism and the right of the Serbian nation to resist subjugation by other nations. These slogans were underpinned by aspirations for establishing 'the Great Serbia' and the idea of a Yugoslavia led by Serbia as the most populous nation.<sup>48</sup>

The first concrete consequence of these aspirations was that, through amendments to the republican constitution, Serbian authorities effectively assumed full political control over the two autonomous regions. The fact that the influence of the Serbian political leadership had also extended to the federal army (i.e. the Yugoslav People's Army) provoked a strong reaction, particularly in the northern republics of Slovenia and Croatia, which sought to avoid a similar fate.

To 'save' Yugoslavia, Slovenia and Croatia proposed transforming the federation into a confederation, but this was rejected by the bodies of the federation and other republics. In stark contrast, the Federation and Serbia continued to push for an even more centralised federation. When it became clear that an amicable dissolution of the Yugoslav Federation was not possible, the two republics decided to take unilateral steps that would eventually lead to the declaration of independence.<sup>49</sup> For example, despite fierce opposition and threats from the federal authorities, between 1989 and 1991, Serbia carried out far-reaching reforms of the republican constitution. These reforms led this Yugoslav republic in the direction of gradual democratisation, while paving the way for leaving the

46 | Workers' self-management transformed into a specific form of 'economic nationalism' of republics and regions, where local elites supported their own economy. The same can be said about the delegate system. See Juri, 2006, pp. 54–62.

47 | Ibid. Monetary policy remained in the hands of the central federal government. In this respect, while the dinar was still the only official currency, the German mark began to replace it in private transactions. Although foreign policy also remained the responsibility of the central federal government, in practice, the republics had already been given the opportunity to implement foreign policy. The Yugoslav People's army was also no longer the only military force because territorial defence units were being strengthened in some of the republics.

48 | Pirjevec, 1995, cited in Juri, 2006, p. 57.

49 | Arguably, the disintegration of the federation was greatly supported by the 1974 constitutional arrangement, which enabled the republics to strengthen their own statehood within the federal system. An important contributing factor to the separation of the nations and republics, which had been united in the Yugoslav Federation for almost half a century, was the death of Josip Broz Tito and the prevailing sense that the Yugoslav nations had lost their common 'father'. See Čepič, 2016, p. 167. Interestingly, following Tito's death, a process of liberalisation began in Slovenia and to a lesser extent Croatia, while in Serbia and other republics, the restriction of fundamental rights and freedoms gained momentum. See Juri, 2006, p. 55.

federation and the establishment of an independent state.<sup>50</sup> Slovenia and Croatia declared their independence on 25 June 1991. It was on that day that the second Yugoslavia formally disintegrated, triggering several wars in the territory. While the armed conflict between the Serb-dominated Yugoslav army and the Slovenian Territorial Defence Forces was short-lived, Croatia and Bosnia and Herzegovina suffered long-lasting consequences of a violent war, which lasted almost four years and left each country completely devastated. Although no direct military action took place in Serbia and Montenegro, they were confronted with other problems, namely, an authoritarian political system that persisted until the fall of Milošević with NATO's imposition of sanctions and bombing of Serbian territory.<sup>51</sup>

### 3. Decentralisation and the principle of equality: Yugoslav vis-à-vis European (con)federalism

#### | 3.1. (Con)federalism and decentralisation

From the overview above, it is clear that, under the 1974 Constitution, the Yugoslav Federation exhibited several elements of a confederal arrangement. For example: (a) both chambers of the SFRY Assembly were composed according to the principle of parity (i.e. the federal units were equally represented); (b) any changes to the federal constitution required the consent of all federal units (the same applied to the adoption of laws in the

50 | The constitutional amendments emphasised the permanent and inalienable right of the Slovenian nation to self-determination. The Assembly of the Republic of Slovenia was obliged to protect the constitutional position of the Republic if federal authorities interfered with this position through decisions that exceeded their competences as defined in the federal constitution. An amendment stipulated that a state of emergency could no longer be declared in Slovenia without the consent of the Republic's Assembly. These constitutional amendments established a confederal relationship between Slovenia and the Yugoslav Federation and were not formally in accordance with the federal constitution, resulting in the federal Constitutional Court swiftly annulling them. However, the Slovenian authorities disregarded the Court's decisions. A new set of constitutional changes soon followed, leading Slovenia even more decisively towards independence. Among other things, the word 'socialist' was removed from Slovenia's name as a federal unit. This change was in direct conflict with the federal constitution, which still mandated a socialist social order. In line with this shift, the Assembly of the Republic of Slovenia adopted a package of amendments that laid the groundwork for the development of a free market economy, entrepreneurship, political pluralism, and multi-party elections, thus allowing the formation of political parties that were alternatives to the Communist Party. In 1990, before the formal disintegration of the SFRY, Slovenia held its first multi-party parliamentary elections, in which political forces advocating for an independent Slovenia came to power. The new constitutional amendments stipulated, among other things, that the provisions of the 1974 Federal Constitution that conflicted with the republican constitution would no longer apply in Slovenia. From that point on, only federal laws approved by the Republic's Assembly were in effect in Slovenia. These changes, while not yet severing ties with the federation, placed the relationship on a confederal basis and initiated the process of building an independent Slovenian state and its own legal order. See Grad et al., 2018, pp. 88–89.

51 | See Šelih, 2012, cited in Hacin, 2022, p. 335.

Assembly of Republics and Regions); and (c) the composition of the Presidency of the SFRY and other key federal bodies was also based on parity.<sup>52</sup> Additionally, towards the end of the SFRY's existence, the principle of the supremacy of federal law over the constitutions and laws of the republics was inconsistently applied in practice.

The fundamental relationship between the republics, as federal units, and the federation was structured in such a way that, at least in principle, the republics were the primary holders of state power. The Federation held state power only in areas where the federal constitution explicitly transferred powers to it. Furthermore, as mentioned earlier, the 1974 Constitution emphasised that the Yugoslav Federation was founded on the voluntary and consensual union of the nations of Yugoslavia, based on the right of each nation to self-determination and secession.

In the three years before the disintegration of the SFRY, the confederal nature of the country escalated to the point where irreconcilable differences between some nations and republics, as well as between the federation and certain republics, along with the ambitions of one federal unit to secure a dominant position over the others, created an unequal status. Consequently, neither the federal nor the confederal system could be maintained, leading to the country's eventual collapse.

Comparison of the Yugoslav Federation with the EU elicits obvious differences and entirely incompatible features, as well as some similarities. The EU is a supranational association of countries with a unique structure.<sup>53</sup> It exists in a space between federalism and confederalism, incorporating elements of both. Skillen argues that the EU has effectively developed a written constitution through a series of overlapping treaties. Although the 'European Constitution' (e.g. the Treaty establishing a Constitution for Europe) failed to gain ratification, the Treaty of Lisbon incorporates most of its key provisions and functions as a *de facto* constitution. This treaty framework emphasises the non-centralisation of power, clearly delineating competencies between the EU and its Member States. The Court of Justice of the European Union (CJEU) plays a crucial role in interpreting these powers, thus maintaining the balance of non-centralisation. The 'federal principle' is also reflected in the aspiration for an 'ever-closer union'.<sup>54</sup>

However, the federal principle within the EU is not particularly strong. According to Elazar, for instance, it is more confederal than federal, as the primary expression of its constituent parts is at the national, Member State level, rather than through the EU's institutions.<sup>55</sup> The confederal principle is also reflected in the EU's foundation on international treaties and in the absence of clear and real division of powers. Nonetheless, the EU's structure does not fit the definition of a confederation, as it possesses supranational elements and has directly elected representatives of its constituents. With the enhanced role of the European Parliament following the Treaty of Lisbon, it is evident that the EU's institutions are not merely composed of delegates from the governments of Member States and that they wield certain supranational powers rather than being purely

52 | Grad et al., 2018, p. 87.

53 | Debating the structure of the EU, scholars have aligned it with federalism or confederalism, viewing it as a hybrid integration – that is, as combining elements of both a federation and a confederation – or arguing that it is neither a federation nor a confederation, but as a *sui generis* supranational formation.

54 | Skillen, 2017, p. 4.

55 | *Ibid.*

intergovernmental.<sup>56</sup> Finally, a confederal principle can be observed in EU decision-making processes. For instance, the European Parliament employs various forms of majority voting in its legislative procedures, and while consensus is generally sought in the Council of the European Union, qualified majority voting is also utilised.

### | 3.2. *The principle of equality*

Formally speaking, the constitutional arrangement of post-war socialist Yugoslavia placed great emphasis on the principle of equality among nations and federal units. The SFRY was established on fundamentally different principles compared to the pre-war Kingdom of Yugoslavia, which had a centralised, pro-Serbian structure with little regard for equality among its nations. In contrast, the 1974 Constitution, the last of the three constitutions of the second Yugoslavia, consistently emphasised the unity of Yugoslavia's nations, reiterating that these nations 'united on a freely expressed will into a federal republic of free and equal nations and nationalities'.<sup>57</sup>

The Basic Principles of the 1974 Constitution further asserted that the SFRY, in the interest of each individual nation and nationality, as well as their collective interests, sought to establish 'a system of socio-economic relations and a unified political foundation that ensures the common interests of the working class and all working people, along with the equality of nations and nationalities'. The Basic Principles also underscored the equal participation of the republics and autonomous regions within the Federation's governing bodies, promoting communication, solidarity, and reciprocity among the republics and regions.<sup>58</sup>

Employing typical socialist terminology, the Basic Principles of the 1974 Constitution stressed the importance of upholding the principle of equality among nations and republics in the context of the socialist economy. It stipulated that, in order to establish a material foundation for the equality of Yugoslavia's nations and nationalities, and level the material conditions of social life and work for all working people, special attention must be given to the accelerated development of productive forces in the economically less developed republics and autonomous regions. Additionally, the 1974 Constitution highlighted the importance of ensuring equality among nations and nationalities, and in republics and autonomous regions, in areas such as workers' self-management, education, and international co-operation.<sup>59</sup>

The normative part of the 1974 Constitution established that the SFRY was a federal state founded, among other principles, on the equality of nations and nationalities. Article 178 of the 1974 Constitution stipulated that any propagation or implementation of national inequality was unconstitutional and criminal. The 1974 Constitution included the following explicit references to the principle of equality among nations and republics:

- The republics are sovereign states based on the equality of the nations of Yugoslavia.<sup>60</sup>
- The common interests of nations and nationalities are addressed through federal bodies, with equal participation and responsibility of the republics and

56 | Ibid., p. 7.

57 | 1974 Constitution, Basic Principles, Section I.

58 | 1974 Constitution, Basic Principles, Section I.

59 | 1974 Constitution, Basic Principles, Sections II–VIII.

60 | 1974 Constitution, First Part, Articles 1–3.

- autonomous regions in these bodies for determining and implementing the federation's policies.<sup>61</sup>
- The languages and scripts of the nations and nationalities within Yugoslavia, as well as in international communication, have equal status.<sup>62</sup>
  - Laws, regulations, or actions that place organisations of united labour or working people from other republics and autonomous regions, and consequently those republics and autonomous regions, in an unequal position, are inconsistent with the constitution.<sup>63</sup>
  - If the equality of republics and autonomous regions in the unified Yugoslav market is affected by acts of federal bodies that determine or implement common economic policy, compensation must be provided while the common economic policy and its measures are determined, making it an integral part of the policy's implementation.<sup>64</sup>
  - The contributions of the republics and autonomous regions, which form part of the Federation's income, must be determined in accordance with the principle of equality and the shared responsibility of the republics and autonomous regions for financing the functions of the Federation.<sup>65</sup>

The composition of the bicameral Federal Assembly and other federal bodies was outlined in the Fourth Part of the 1974 Constitution. The Federal Council was made up of delegates from self-governing communities and socio-political organisations within the republics and autonomous regions, and the Council of Republics and Regions comprised delegations from the assemblies of the republics and autonomous regions. While the Federal Council included thirty delegates from each republic and twenty delegates from each autonomous region, the Council of Republics and Regions consisted of twelve delegates from each republic's assembly and eight delegates from each autonomous region's assembly. Members of the working bodies of the Council of Republics and Regions were elected from among the delegates, following the principle of equal representation of the republics and appropriate representation of the autonomous regions.<sup>66</sup>

For passing laws and exercising the other powers of the Council of Republics and Regions, the consent of the assemblies of all republics and autonomous regions was required, whereby the assembly of a federal unit could authorise its delegation in the Council of Republics and Regions to grant such consent.<sup>67</sup> If the assemblies of the republics and autonomous regions failed to reach consensus on a draft law, the Federal Assembly could, under special conditions, on the proposal of the Federal Executive Council, enact a law on temporary measures without the consent of the assemblies of the republics and autonomous regions.<sup>68</sup>

According to the 1974 Constitution, the Yugoslav Federation had a collective Presidency, which comprised one member from each republic and autonomous region elected

61 | 1974 Constitution, Third Part, Chapter 1, Article 244.

62 | 1974 Constitution, Articles 245 and 271.

63 | 1974 Constitution, Article 254.

64 | 1974 Constitution, Article 256.

65 | 1974 Constitution, Article 279.

66 | 1974 Constitution, Fourth Part, Chapter 1, Articles 291–292 and 297.

67 | 1974 Constitution, Articles 297–298.

68 | 1974 Constitution, Article 301.

by the assembly of that republic or autonomous region.<sup>69</sup> The Presidency made decisions based on 'the co-ordinated positions of its members'.<sup>70</sup>

The Federal Executive Council, the executive body, was elected according to the principle of equal representation of the republics and with 'adequate representation' of the autonomous regions. The same applied to the appointment of federal secretaries and other officials who headed federal administrative bodies and organisations and were members of the Federal Executive Council. The Federal Executive Council made decisions by the majority vote of the members present at the meeting. It also issued regulations for the implementation of laws and other general acts adopted by the Council of Republics and Regions with the consent of the competent republican and regional bodies, provided that these laws and acts required the harmonisation of the positions of the federal units.<sup>71</sup>

The 1974 Constitution addressed the situation should the Federal Executive Council failed to reach a consensus with the competent republican and regional authorities on a proposed regulation for the enforcement of the law. In such cases, the Federal Executive Council could adopt a special regulation on temporary measures, provided the Presidency of the SFRY agreed that such a regulation was necessary. The Federal Executive Council adopted the regulation on temporary measures by a majority vote of all its members.<sup>72</sup>

The federal judicial system comprised the Constitutional Court and the Federal Court of the SFRY. The Constitutional Court consisted of a President and thirteen judges elected by the Federal Assembly. Two members from each republic and one member from each autonomous region were elected to the Constitutional Court. Decisions and resolutions were adopted by a majority vote of all members of the Constitutional Court. The principle of equal representation of all republics and adequate representation of autonomous regions was also considered in the composition of the Federal Court.<sup>73</sup>

Before assuming their duties, the highest officials of the federal authorities took an oath to uphold the sovereignty and independence of the country, defend socialist values, and ensure the equality of nations and nationalities.<sup>74</sup>

In the EU system, the principle of equality among Member States is set out in paragraph 2 of Article 4 of the Treaty on European Union (TEU) which states, *inter alia*, that 'the Union shall respect the equality of member States before the Treaties as well as their national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government.' This provision also contains the principle requiring the EU to respect Member States' national identities. This principle is coupled with that of sincere co-operation, set forth in paragraph 4(3) of the TEU, regarded as the true cornerstone of European integration.

It was only under the Treaty of Lisbon that the principle of equality with explicit reference to the Member States made its way into EU primary law. In this way, it distinguishes itself from the many statements of equality as a principle concerned with the individual

69 | 1974 Constitution, Article 321.

70 | 1974 Constitution, Article 330. While Article 333 of the 1974 Constitution made the election of the President of the Republic optional rather than obligatory, in recognition of his historical role in the National Liberation War and the socialist revolution, Josip Broz Tito was elected as President of the Republic without a term limit in 1953.

71 | 1974 Constitution, Article 355.

72 | 1974 Constitution, Article 356.

73 | 1974 Constitution, Article 370.

74 | 1974 Constitution, Chapter 8, Article 397.



rights contained in the preamble and in Articles 2, 9, and 29 of the TEU. Nevertheless, manifestations of the principle within the EU system can be seen in several treaty provisions including those concerning the representation of Member States in EU institutions and decision-making processes (e.g. in the voting rules). Legal provisions on both have evolved throughout the European integration process, with each EU Charter introducing its own regimes. The Treaty of Lisbon redefined the composition and representation of Member States in EU institutions, such that in the European Parliament, the seats are allocated proportionally to the population of each Member State. A principle of degressive proportionality is applied, meaning larger states have more Members of the European Parliament (MEPs), but smaller states have more MEPs per capita. No Member State can have fewer than six seats or more than ninety-six seats. In the European Council, each Member State is represented by its Head of State or Government. Decisions are typically made by consensus, but some decisions are subject to qualified majority voting, which reflects both the population size and the number of Member States. The Council of the EU consists of government ministers from each Member State, with each Member State sending one minister for the relevant policy area. The Treaty of Lisbon introduced a reformed qualified-majority voting system, also known as the 'double majority system', which requires 55 per cent of the Member States (at least fifteen states out of twenty-seven) voting in favour, thus representing at least 65 per cent of the total EU population. A blocking minority requires at least four Member States representing more than 35 per cent of the EU population. The European Commission comprises one Commissioner from each Member State. Although the Treaty of Lisbon initially intended to reduce the number of Commissioners to two-thirds of the number of Member States, a political agreement maintained the rule of one Commissioner per Member State. Finally, the appointment of judges to the CJEU and the General Court is now based on the rule of one or two seats per Member State. An exception to the rule in favour of larger Member States is only made in appointing advocates general. These institutional arrangements reflect efforts to maintain a balance between ensuring equality among Member States while recognising differences in population size.

Before finding its place in EU Treaties, the principle had already been expressed by the CJEU in its early rulings through the principle prohibiting discrimination by reason of nationality enshrined in the Treaty Establishing the European Economic Community.<sup>75</sup> Overall, the CJEU has had a significant influence on the interpretation and enforcement of the principle of equality among Member States. According to the CJEU, the principle should be regarded as the duty of EU institutions not to treat similar situations in different ways and different situations in the same way when addressing Member States. The Court has used the principle as a basis for not admitting exceptions to common rules, especially regarding transitional periods granted to new Member States, or justifying the differentiated treatment of newer and older States on the grounds that they find themselves in a different situation. The CJEU further notes that the principle sets some prohibitions for Member States, such as the prohibition of seeking positions of advantage to the detriment of other States.<sup>76</sup>

However, it can be argued that, within the EU system, the principle of equality among Member States is somewhat overshadowed by the idea of differentiated integration. The

<sup>75</sup> | See Rossi, 2017, pp. 23–24.

<sup>76</sup> | Ibid., pp. 24–25.

EU treaties provide different forms of differentiated integration for specific cases and are freely accepted by the Member States. More specifically, if all members agree, differentiated statuses among them can be introduced under the protocols added to the founding Treaties. In such cases, a differentiated status in favour of the requesting State will be set up by relieving it of obligations it would otherwise have under the relevant treaty (e.g. Protocol No. 30 on the application of the EU Charter of the Fundamental Rights to Poland and the United Kingdom). In addition to the modification of the founding Treaties, another form of differentiated integration is the possibility of States resorting to the classic instrument of international law by forming agreements among themselves. According to Rossi, one of the duties of the CJEU is assessing the extent to which the individual examples of differentiated integration accord with the principle of equality among Member states and offering a coherent and homogeneous reading of the fundamental principles and objectives of the founding treaties.<sup>77</sup>

---

## 4. Conclusion

In the constitutional law of the post-war Yugoslav Federation, especially according to the 1974 Constitution, the principle of equality of nations and republics played an important role. The principle of the equality of nations and/or republics is repeatedly highlighted in various contexts, both in the Basic Principles and in the normative part of the 1974 Constitution. Any actions that would promote inequality between the nations of Yugoslavia were considered not only unconstitutional but also criminal. The composition of state bodies at the federal level was primarily based on the principle of parity, ensuring equal representation of nations and republics. Parity was established not only in the legislative bodies, which is common in federal systems, but also in the Presidency and the executive and judicial branches. In principle, the Council of Republics and Regions made decisions by consensus among the Assemblies of the Republics or their representatives, however, if it could not be achieved, decision-making was transferred to the hands of the Federal Executive Council. The Federal Executive Council itself issued regulations for the implementation of laws and other general acts adopted by the Council of Republics and Regions with the consent of the competent republican bodies.

While the Yugoslav and European approaches to ensuring equality among constituent parts and nations cannot be equated entirely, they seem more similar than they might initially appear. In terms of their differences, where the 1974 Yugoslav Constitution contains more than sixty direct references to the principle of equality among either nations or republics or both, the Treaty of Lisbon only makes one reference related to the equality of Member States. Furthermore, in contrast to the Yugoslav model, EU law tends to enforce non-symmetrical (i.e. proportional) equality among constituent units. The CJEU explicitly pointed out that, when treating new and old Member States, the principle should be regarded as a duty of the EU institutions 'not to treat similar situations differently and different situations in the same way when addressing Member States'. Therefore, an important difference between the two models lies in their distinct approaches to implementing the principle of equality among constituent parts and in the fact that in EU law, judicial

77 | See *ibid.*, p. 20.

practice played an important role in the creation and definition of the principle, which is not the case for the Yugoslav federal model. Interestingly, in the Yugoslav federal model, actions that would promote inequality between the nations were prohibited and even considered criminal by the constitution; whereas, in the EU, the rule that the principle of equality among Member States sets the prohibition of seeking positions of advantage of some Member States to the detriment of others was established by the CJEU.

The emphasis on the proportional enforcement of the principle of equality within the EU system is evident in Member States' representation in the EU institutions and in decision-making processes. In the European Parliament, for instance, the seats are allocated according to principle of degressive proportionality, resulting in larger states having more MEPs, but smaller states having more MEPs per capita. While each Member State is represented in the European Council and Council of the EU according to the principle of parity (i.e. symmetrically), in the European Council, some decisions are subject to qualified majority voting, which reflects both the population size and the number of Member States. For the Council of the EU, the Treaty of Lisbon introduced the double majority system, which requires 55 per cent of the Member States (at least fifteen states out of twenty-seven) voting in favour, thereby representing at least 65 per cent of the total EU population. The desire to strike a balance between ensuring (symmetric) equality among Member States while recognising differences in population size can also be seen in the composition of the EU courts, where an exception in favour of larger Member States is made in appointing advocates general.

What can be concluded, as far as the voting and representation systems of the Yugoslav Federation and the EU are concerned, is that the latter seeks to reconcile the rules of formal equality with considerations of substantive equality, accounting for the weight carried by larger Member States while trying to protect smaller Member States from being locked into minority positions. In contrast to the dynamic and differentiated enforcement of the principle of equality of Member States within the EU system, the Yugoslav federal system was far more rigid in its enforcement of the principle of equality between the republics as the formal equality of the federal units. While representation of the republics in the bodies of the federation rested on the application of the principle of parity (i.e. numerical equality with no consideration of the republic's size and number of inhabitants), decision-making in matters related to the position and rights of the Federation's members was based on the consensus of all federal units. This rigid system insensitive to differentiated integration of federal units fuelled the centralist tendencies of both the federal authorities and Serbia, the largest republic, producing a counter-effect: in the northern, more developed republics, it stimulated efforts towards decentralisation, a confederal state structure, greater autonomy, and eventually, their independence.

## Bibliography

- Accetto, M. (2007) *Sodni Federalizem Evropske Unije: primerjava z ameriškim in nekdanjim jugoslovanskim modelom*. Ljubljana: Uradni list Republike Slovenije.
- Borak, N. (2002) 'Slovenija kot najbolj razviti del Jugoslavije', *Prispevki za novejšo zgodovino*, 42(2), pp. 97–109.
- Čepič, Z. (2016) 'Titoizem in konec Jugoslavije', *Prispevki za novejšo zgodovino*, 56(2), pp. 165–182 [Online]. Available at: <https://doi.org/10.51663/pnz.56.2.09> (Accessed: 5 November 2024).
- Djordjević, J. (1970) *Ustavno parvo. Druga dopolnjena izdaja*. Beograd: Savremena adminsitracija.
- Djordjević, M.R. (1997) 'Nastanak i razvoj ideje federalizma u Jugoslaviji do 1946' in Jovičić, M. (ed.) *Federacija i federalizam*. Gradina: Niš, pp. 113–123.
- Flander, B., Meško, G., Hacin, R. (2022) 'Punishment in Slovenia: Seventy Years of Penal Policy Development', *European Journal on Criminal Policy and Research*, 29(3), pp. 1–21 [Online]. Available at: <https://doi.org/10.1007/s10610-022-09524-8> (Accessed: 5 November 2024).
- Grad, F., Kaučič, I., Zagorc, S. (2018) *Ustavno parvo. Druga spremenjena in dopolnjena izdaja*. Ljubljana: Pravna fakulteta.
- Hacin, R., Meško, G., Aebi, M.F., Flander, B. (2022) 'From Apparent Unity to Diversity: Penal Policies of (Former) Yugoslav Republics', *European Journal of crime, Criminal law and Criminal justice*, 30(3-4), pp. 329–354 [Online]. Available at: <https://doi.org/10.1163/15718174-BJA10038> (Accessed: 5 November 2024).
- Juri, L. (2006) *Dezintegracijski elementi v političnih sistemih Socialistične federativne Republike Jugoslavije in Evropske unije. Magistrsko delo*. Ljubljana: Fakulteta za družbene vede.
- Kanzleiter, B. (2011) 'Workers' self-management in Yugoslavia – An ambivalent experience', *Transform! European Journal for Alternative Thinking and Political Dialogue*, 2011/9, pp. 177–180 [Online]. Available at: <https://doi.org/10.1002/9781405198073.wbierp1606> (Accessed: 5 November 2024).
- Kardelj, E. (1957) *Razvoj slovenskega narodnega vpršanja. Druga izdaja*. Ljubljana: Državna založba Slovenije.
- Kaučič, I., Grad, F. (2007) *Ustavna ureditev Slovenije. Četrta spremenjena in dopolnjena izdaja*. Ljubljana: Založba GV.
- Kušej, G. (1972) 'Preobrazba jugoslovanskega federalizma skozi posamezna ustavna razdobja', *Zbornik znanstvenih razprav Pravne fakultete v Ljubljani*, 35, pp. 155–181.
- Pirjevec, J. (1995) *Jugoslavija 1918-1992*. Koper: Založba Lipa.

- Repe, B. (1994) 'The liberalization of Slovene society in the late 1960s', *Slovene Studies: Journal of the Society for Slovene Studies*, 16(2), pp. 49–58 [Online]. Available at: <https://doi.org/10.7152/ssj.v16i2.3968> (Accessed: 5 November 2024).
- Rossi, L.S. (2017) 'The Principle of Equality Among Member States of the European Union' in Rossi, L.S., Casolari, F. (eds.) *The Principle of Equality in EU Law*. New York City: Springer International Publishing, pp. 3–42; [https://doi.org/10.1007/978-3-319-66137-7\\_1](https://doi.org/10.1007/978-3-319-66137-7_1).
- Šelih, A. (2012) 'Crime and Crime Control in Transition Countries' in Šelih, A., Završnik, A. (eds.) *Crime and Transition in Central and Eastern Europe*. London: Springer, pp. 3–34; [https://doi.org/10.1007/978-1-4614-3517-4\\_1](https://doi.org/10.1007/978-1-4614-3517-4_1).
- Skillen, L.M. (2017) 'Between Federation and Confederation: the EU's 'Accountability Deficit' as the Result of Structural Hybridity', *IFF Working Paper Online*, 20, pp. 2–13 [Online]. Available at: [https://www.unifr.ch/federalism/en/assets/public/files/Working%20Paper%20online/20\\_Laura%20M.%20Skillen.pdf](https://www.unifr.ch/federalism/en/assets/public/files/Working%20Paper%20online/20_Laura%20M.%20Skillen.pdf) (Accessed: 23 August 2024).
- Šnuderl, M. (1956) *Ustavno pravo Federativne ljudske republike Jugoslavije. 1. knjiga: Družbena in politična ureditev*. Ljubljana: Pravno-ekonomska fakulteta.
- Ustava Federativne ljudske republike Jugoslavije* (1946) [Constitution of the Federal People's Republic of Yugoslavia 1946, Constitution of the Socialist Federal Republic of Yugoslavia], Beograd: Uradni list FLRJ 1946 [Online]. Available at: [https://sl.wikisource.org/wiki/Ustava\\_Socialisti%C4%8Dne\\_federativne\\_republike\\_Jugoslavije\\_\(1974\)/Dru%C5%BEbena\\_ureditev](https://sl.wikisource.org/wiki/Ustava_Socialisti%C4%8Dne_federativne_republike_Jugoslavije_(1974)/Dru%C5%BEbena_ureditev) (Accessed: 6 September 2024).
- Ustavni zakon Federativne ljudske republike Jugoslavije* (1953) [Constitutional Act of the Federal People's Republic of Yugoslavia of 1953], Beograd: Uradni list FLRJ 1953.
- Ustava Socialistične federativne republike Jugoslavije* (1963) [Constitution of the Socialist Federal Republic of Yugoslavia of 1963]. Beograd: Uradni list SFRJ 1963 [Online]. Available at: <https://www.pfsa.unsa.ba/pf/wp-content/uploads/2019/05/Ustav-SFRJ-iz-1963.pdf> (Accessed: 30 August 2024).
- Ustava Socialistične federativne republike Jugoslavije* (1974) [Constitution of the Socialist Federal Republic of Yugoslavia of 1974], Beograd: Uradni list SFRJ 1974 [Online]. Available at: [https://sl.wikisource.org/wiki/Ustava\\_Socialisti%C4%8Dne\\_federativne\\_republike\\_Jugoslavije\\_\(1974\)](https://sl.wikisource.org/wiki/Ustava_Socialisti%C4%8Dne_federativne_republike_Jugoslavije_(1974)) (Accessed: 2 August 2024).
- Žagar, M. (1990) *Sodobni federalizem s posebnim poudarkom na asimetrični federaciji v večnacionalnih državah. Doktorska disertacija*. Ljubljana: Pravna fakulteta.
- Žagar, M. (2010) 'Ustava SFRJ in ustavni sistem 1974: povzročitelj krize ali mehanizem za njeno reševanje?', *Slovenija – Jugoslavija, krize in reforme 1968/1988*, 2010, pp. 231–256 [Online]. Available at: <https://www.dlib.si/stream/URN:NBN:SI:doc-DKI3JCPU/aa942586-dd67-466a-a0b8-ace1a5ff9680/PDF> (Accessed: 12 September 2024).